

February 10, 2005 Commission Meeting Summary

ITEM #

- 1. Public Comment.** *The Commission received public comment from Cheryl Maki, Charles Wachob, Assembly Member Gene Mullin, Ned Wigglesworth, and Donna Gerber.*
- 2. Approval of the January 20, 2005, Commission Meeting Minutes.** *Approved.*
- 3. Approval of the January 20, 2005, Special Meeting Minutes.** *Approved.*

ENFORCEMENT

Conflicts of Interest Violations and Campaign Reporting Violations

- 4. In the Matter of Terry Morgan and Terry Morgan for West Hollywood City Council, FPPC No. 01/215.** Staff: Senior Commission Counsel Deanne Canar and Chief Investigator Sue Straine. Respondent Morgan was a former member of the Business License Commission for the City of West Hollywood and also an unsuccessful candidate for West Hollywood City Council. Respondent Terry Morgan for West Hollywood City Council was the committee established by Respondent Morgan to support his candidacy for city council. Respondent accepted a campaign contribution of more than \$250 from a party to a proceeding that was pending before the business license commission, in violation of Government Code section 84308, subdivision (b) (1 count). Respondents Terry Morgan and Terry Morgan for West Hollywood City Council failed to timely file a post-election semi-annual campaign statement, in violation of Government Code section 84200, subdivision (a) (1 count). *Approved; \$2,500 fine.*
- 5. In the Matter of Donald Schrader, FPPC No. 01/254.** Staff: Senior Commission Counsel William L. Williams, Jr. and Investigator III Jon Wroten. Respondent Donald Schrader violated the Political Reform Act by making a governmental decision in which he had a financial interest, in violation of Government Code section 87100 (2 counts), and using or attempting to use his official position to influence governmental decisions in which he had a financial interest, in violation of Government Code section 87100 (1 count). *Approved; \$10,000 fine.*

Campaign Reporting Violations

- 6. In the Matter of Kings Arco Arena Limited Partnership, FPPC No. 04/165.** Staff: Commission Counsel Elizabeth K. Conti and Investigator III Jon Wroten. Respondent Kings Arco Arena Limited Partnership is a sports and entertainment business domiciled in

Sacramento. Respondent failed to timely disclose a late contribution in a properly filed paper late contribution report, in violation of Government Code section 84203, subdivision (a) (1 count); and failed to timely disclose a late contribution in a properly filed electronic late contribution report, in violation of Government Code section 84605, subdivision (a) (1 count). *Approved; \$10,000 fine.*

7. **In the Matter of Consumers and Their Attorneys, Yes on Proposition 30, FPPC No. 00/101.** Staff: Commission Counsel Elizabeth K. Conti and Accounting Specialist William Marland. Respondent Consumers and Their Attorneys, Yes on Proposition 30 was a state ballot measure committee headquartered in Sacramento, California. Respondent failed to report sub-vendor information for payments made to Morris & Carrick, a political consulting firm based in New York, in violation of Government Code section 84303 (5 counts). *Approved; \$10,000 fine.*
8. **In the Matter of Dick Frank, and Re-elect Dick Frank Assessor, FPPC No. 02/1076.** Staff: Senior Commission Counsel Julia Bilaver and Investigator II Charlie Bilyeu. Respondent Dick Frank was a successful incumbent candidate for Assessor of San Luis Obispo County in an election held on March 5, 2002. Respondent Re-elect Dick Frank Assessor was the controlled committee of Respondent Dick Frank. Respondents failed to timely file a semi-annual campaign statement by July 31, 2002, for the reporting period February 17 through June 30, 2002, in violation of Government Code section 84200, subdivision (a). *Approved; \$5,000 fine.*

Contributor Identification Violation

9. **In the Matter of Calsan, Inc., FPPC No. 01/641.** Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Jon Wroten. Respondent is a garbage hauling company located in Downey. In 1999, Respondent was the true source of three campaign contributions, totaling \$849, made to two Cerritos City Council candidates and a candidate for the Compton Community College Board of Trustees. The contributions were made in the name of a company employee, in violation of Government Code sections 84301 and 84300 (3 counts). *Approved; \$4,500 fine.*

Late Contribution Reporting Violations – Streamlined Program

10. **Failure to Timely Disclose Late Contributions.** Staff: Chief Investigator Sue Straine, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to timely disclose late contributions in properly filed late contribution reports in 2003, in violation of Government Code Section 84203:
 - a. **In the Matter of MirSaied Kashani, FPPC No. 2004-0762.** MirSaied Kashani of Los Angeles failed to timely disclose a late contribution of \$10,000.00. (1 count) *Approved; \$1,500 fine.*

- b. **In the Matter of Sandra Lee, FPPC No. 2004-0763.** Sandra Lee of Santa Monica failed to timely disclose a late contribution of \$10,000.00. (1 count) ***Approved; \$1,500 fine.***
- c. **In the Matter of Casey Wasserman, FPPC No. 2004-0766.** Casey Wasserman of Los Angeles failed to timely disclose a late contribution of \$20,000.00. (1 count) ***Approved; \$3,000 fine.***
- d. **In the Matter of James & Janet Ray, FPPC No. 2004-0767.** James & Janet Ray of Corona Del Mar failed to timely disclose a late contribution of \$30,000.00. (1 count) ***Approved; \$4,500 fine.***
- e. **In the Matter of B&B Framing, Inc., FPPC No. 2004-0768.** B&B Framing, Inc. of Moreno Valley failed to timely disclose a late contribution of \$20,000.00. (1 count) ***Approved; \$3,000 fine.***
- f. **In the Matter of Frank Mancuso, FPPC No. 2004-0774.** Frank Mancuso of Los Angeles failed to timely disclose a late contribution of \$10,000.00. (1 count) ***Approved; \$1,500 fine.***
- g. **In the Matter of Joseph Eger, FPPC No. 2004-0780.** Joseph Eger of Stockton failed to timely disclose late contributions totaling \$17,150.00. (2 counts) ***Approved; \$2,572.50 fine.***

Major Donor Non-filing Violations – Streamlined Program

11. Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar years of 2003 and 2004, in violation of Government Code section 84200:

- a. **In the Matter of Mitchell D. Kapur, FPPC No. 2004-0791.** Mitchell D. Kapur of San Francisco failed to timely disclose contributions totaling \$40,000.00 in 2003. (1 count) ***Approved; \$400 fine.***
- b. **In the Matter of George Ross, FPPC No. 2004-0795.** George Ross of New York, New York failed to timely disclose contributions totaling \$10,000.00 in 2003. (1 count) ***Approved; \$400 fine.***
- c. **In the Matter of Michael Hall Kieschnick, FPPC No. 2004-0796.** Michael Hall Kieschnick of Palo Alto failed to timely disclose contributions totaling \$10,000.00 in 2003. (1 count) ***Approved; \$400 fine.***

- d. **In the Matter of L. Thomas Lakin, FPPC No. 2004-0806.** L. Thomas Lakin of Malibu failed to timely disclose contributions totaling \$10,000.00 in 2003. (1 count) *Approved; \$400 fine.*
- e. **In the Matter of 25th Ward Regular Democratic Organization, FPPC No. 2004-0811.** 25th Ward Regular Democratic Organization of Chicago, Illinois failed to timely disclose contributions totaling \$10,000.00 in 2003. (1 count) *Approved; \$400 fine.*
- f. **In the Matter of Filter Recycling Services, Inc., FPPC No. 2004-0819.** Filter Recycling Services, Inc. of Colton failed to timely disclose contributions totaling \$15,400.00 in 2003. (1 count) *Approved; \$400 fine.*
- g. **In the Matter of Axel & Inge Karlshoej, FPPC No. 2005-0004.** Axel & Inge Karlshoej of Yuba City failed to timely disclose contributions totaling \$10,000.00 in 2004. (1 count) *Approved; \$400 fine.*

Statement of Economic Interests – Streamlined Program

12. Failure to Timely File Statements of Economic Interests. Staff: Political Reform Consultant Linda Denly. The following persons have entered into stipulations for failing to timely file statements of economic interests, in violation of Government Code sections 87202, 87203, 87204 or 87300.

- a. **In the Matter of Catalina Madrigal, FPPC No. 04/0635.** Catalina Madrigal, a member of the City of Salinas Planning Commission, failed to timely file a 2003 annual statement of economic interests, in violation of Government Code section 87200 (1 count). *Approved; \$100 fine.*
- b. **In the Matter of Seng Cha, FPPC No. 04/641.** Seng Cha, an alternate commissioner for the California Strawberry Commission, failed to timely file a 2003 annual statement of economic interests, in violation of Government Code section 87300 (1 count). *Approved; \$100 fine.*
- c. **In the Matter of Julie Hartsell, FPPC File No. 04/754.** Julie Hartsell, a commissioner for the San Mateo County Civil Service Commission, failed to timely file a 2001, 2002 and 2003 annual statement of economic interests, in violation of Government Code section 87300 (3 counts). *Approved; \$300 fine.*
- d. **In the Matter of Stephen Laymon, FPPC File No. 04/621.** Stephen Laymon, a member of the Atwell Island Water District, failed to timely file a 2003 annual statement of economic interests, in violation of Government Code section 87300 (1 count). *Approved; \$100 fine.*

Proposed Administrative Law Judge Decision

13. In the Matter of Harry J. Pappas, FPPC No. 02-723. Staff: Senior Commission Counsel William L. Williams and Chief Investigator Susan Straine. Respondent Henry J. Pappas qualified as a major donor and state general purpose committee on or about February 19, 2002, and failed to file five required late contribution reports over a roughly 24-hour period between February 19 and February 20, 2002. Respondent also failed to file an electronic copy of his semi-annual report due on January 31, 2003. Following an administrative hearing in Sacramento on September 10, 2004, Administrative Law Judge M. Amanda Behe found that Respondent had violated the Act as alleged in all six counts, and assessed a fine of \$2,000 for each failure to submit a late contribution report. After finding that Respondent's failure to file an electronic copy of his semi-annual report was "inadvertent," the Administrative Law Judge declined to add a further penalty to the total sum of \$10,000 assessed on Counts One through Five. Arguing that this fine is too low for a pattern of negligence leading to six serious violations, the Enforcement Division asks the Commission to reject the Proposed Decision and to decide the matter itself from the existing record. Respondent argues that the Administrative Law Judge acted within her sound discretion in setting a penalty reasonable under the circumstances of the case, and asks the Commission to adopt the Proposed Decision as written. The Commission may hear argument from the parties, and will then consider in closed session whether to adopt or reject the Proposed Decision. *The Commission accepted the proposed decision.*

ACTION ITEMS

Pre-Notice Discussion of Regulations

14. Discussion of Amendment to Regulation 18702.4: Proposed Adoption of Regulation 18750.2 and Regulation 18755. Staff: Assistant General Counsel John W. Wallace. Public officials disclose their financial interests in accordance with the conflict of interest code developed by their respective agency. A conflict of interest code is both adopted by a state agency and approved by the Commission (as the code reviewing body) consistent with the Administrative Procedures Act (APA). However, certain state agencies, such as the University of California (UC) and the Legislature, are not subject to the APA. Due to this fact, over the years the Commission staff and these agencies have developed hybrid procedures for enacting codes and code amendments. These procedures have never been codified. Staff is asking the Commission to consider codification of this procedure in regulation 18750.2. Similarly, regulation 18702.4(c) provides that principal investigators in institutions of higher learning have specialized disclosure and disqualification rules. Proposed regulation 18755 would set forth the filing requirements for these principal investigators. In addition, the proposed regulation codifies for the first time a list of nonprofits that need not be disclosed under these specialized rules. In the past the Commission has approved this list and additions to the list, but the list has never been codified before. *The proposals were approved for notice and adoption in April.*

Legislation

15. Legislative Report. Staff: Executive Director Mark Krause. *Accepted.*

DISCUSSION ITEMS

16. Executive Director's Report. Staff: Executive Director Mark Krausse. *Accepted.*

17. Litigation Report. Staff: General Counsel Luisa Menchaca and Senior Commission Counsel Larry Woodlock. *Accepted.*